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REMARKS

Claims 1-41 are currently pending in the subject application and are presently under consideration. Claims 1, 7-12, 23-26, 27, 36-38, 40 and 41 have been amended as shown at pp. 2-17 of the Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1, 7-12, 23-26, 36 and 37 Under 35 U.S.C §112

Claims 1, 7-12, 23-26, 36 and 37 stand rejected under 35 U.S.C §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 7-12, 23-26, 36 and 37 have been amended to more clearly recite the claimed subject matter with respect to "delay time." Accordingly, withdrawal of this rejection is respectfully requested.

II. Rejection of Claims 1, 2 and 5-11 Under 35 U.S.C. §103(a)

Claims 1, 2 and 5-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Augart (US 6,778,524) in view of Stilp (US 2003/0095069 A1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Augart and Stilp, alone or in combination, do not teach or suggest each and every limitation of applicants' claimed invention.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

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The subject invention relates to determining the geographic location of Internet hosts. The location of an Internet host is determined by way of a data store and location codes extracted from router labels associated with nodes along the path from a computer system to the Internet host. The location can be corrected if a time delay of a transmission from a computer to the internet host is greater than a threshold indicating that the Internet host and intermediate node are not geographically close. In particular, independent claim 1 (and similarly recited in independent claims 7-11) *a network path between a host IP address associated with the Internet host and the computer system, wherein the network path comprises the computer system, the Internet host, and at least one intermediate network node...determining a delay time associated with a transmission from the computer system to receipt of the transmission at the Internet host along the network path; and selectively correcting the location estimate according to the delay time associated with the network path.*

Augart does not teach or suggest the aforementioned novel aspects of applicants' invention as recited in the subject claims. Augart teaches methods for determining the location of an Internet host by employing information associated with nodes along the path from a computer system to the internet host. However, as conceded in the Office Action, Augart is silent regarding time delay associated with a network path. The Office Action attempts to cite Stilp to make up for the deficiencies of Augart with respect to time delay. However, Stilp is concerned with identifying geographic locations as it relates to a mobile *wireless* device. Stilp, *et al.* teaches triangulation methods using fixed antennae with known geographic locations and time delays for receipt of transmissions between the antennae and mobile device. Contrary to suggestions in the Office Action, the mathematical models used to triangulate a location using the time delays in wireless communication are not applicable to transmission across *multiple nodes*. Transmissions in wireless communication are straight line or line of site between the antenna and mobile device. The mathematical models for triangulation of a wireless device rely on a straight line transmission assumption with *no intermediate nodes*. A transmission that passes through multiple modes is not in a straight line from transmitter to receiver and in fact may move from node to node across many disparate geographic locations.

Furthermore, the Office action attempts to equate the time delays associated with RF components that the prior art stores for calibration purposes to the time delay from the computer

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to the Internet host recited in the subject claim. These are not equivalent time delay measurements and are used for different purposes. The prior art uses stored calibration time delays representing the effects of RF components in the location calculation for every location estimate (not selectively) to compensate for component delays. The applicants' claimed invention uses a time delay measurement along a network path from the computer to the Internet host to *selectively* correct the location estimate obtained by a router label if the time delay indicates that the router label location estimate is not accurate.

In view of at least the foregoing, applicants' representative respectfully submits that Augart and Stilp, alone or in combination, fails to teach or suggest all limitations of applicants' invention as recited in independent claims 1 and 7-11 (and claims 2, 5, and 6 that depend there from), and thus fails to make obvious the claimed invention. Therefore, this rejection should be withdrawn.

III. Rejection of Claims 3 and 4 Under 35 U.S.C. §103(a)

Claims 3 and 4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Augart (US 6,778,524) in view of Stilp (US 2003/0095069 A1), as applied to claim 1 above, and further in view of Yakhini, *et al.* (US 6,768,820 B1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Augart, Stilp, and Yakhini, *et al.*, alone or in combination, do not teach or suggest each and every limitation of applicants' claimed invention.

Claims 3 and 4 recite *determining a confidence metric representative of the accuracy of the location estimate*. As conceded in the Office Action, Augart and Stilp fail to teach a confidence metric as recited in the subject claim. Contrary to assertions in the Office Action, Yakhini, *et al.* also fails to teach or suggest these limitations. Yakhini, *et al.* discloses a method for evaluating the orientation of a molecular array by examining an image. The prior art reference employs IQR and MAD metrics for the purpose of identifying pixel outliers in the image. Yakhini, *et al.* is silent regarding location estimates of an Internet host and a confidence metric associated with the location estimate. Accordingly, even when combined, the prior art references fail to teach or suggest *determining a confidence metric representative of the accuracy of the location estimate* and furthermore, they are concerned with different subject

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matter and provide no motivation to be combined. Therefore, this rejection should be withdrawn.

IV. Rejection of Claims 12, 13 and 23-26 Under 35 U.S.C. §103(a)

Claims 12, 13 and 23-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gray, *et al.* (US 4,891,761) in view of Augart (US 6,778,524). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Augart and Gray, *et al.*, alone or in combination, do not teach or suggest each and every limitation of applicants' claimed invention.

Independent claim 12 (and similarly independent claims 23-26) recite *measuring a...delay time relating to a transmission from the ... computer system to receipt of the transmission at the Internet host along a ... network path between a host IP address associated with the Internet host and the ... computer system ... the ... network paths containing at least one intermediate node*. As conceded in the Office Action, Augart is silent regarding time delay associated with a network path. The Office Action attempts to cite Gray, *et al.* to make up for the deficiencies of Augart with respect to time delay. However, Gray, *et al.* is concerned with identifying geographic locations as it relates to a mobile *wireless* device. Gray, *et al.* teaches triangulation methods using fixed antennae with known geographic locations and time delays for receipt of transmissions between the antennae and mobile device. Contrary to suggestions in the Office Action, the mathematical models used to triangulate a location using the time delays in wireless communication are not applicable to transmission across *multiple nodes*. Transmissions in wireless communication are straight line or line of site between the antenna and mobile device. The mathematical models for triangulation of a wireless device rely on a straight line transmission assumption with *no intermediate nodes*. A transmission that passes through multiple modes is not in a straight line from transmitter to receiver and in fact may move from node to node across many disparate geographic locations. The Examiner suggests that a probabilistic model should be employed to relate time delay to distance in a non-wireless environment. However, neither of the cited prior art references teach nor makes such a suggestion.

Accordingly, applicants' representative respectfully submits that Augart and Gray, *et al.*, alone or in combination, fails to teach or suggest all limitations of applicants' invention as

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recited in independent claims 12 and 23-26 (and claim 13 that depends there from), and thus fails to make obvious the claimed invention. Therefore, this rejection should be withdrawn.

V. Rejection of Claims 14 and 15 Under 35 U.S.C. §103(a)

Claims 14 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gray *et al.* (hereinafter Gray) (US 4,891,761) in view of Augart (US 6,778,524) as applied to claim 12 above, and further in view of Intriligator *et al.* (hereinafter Intriligator) (US 6,356,842). Withdrawal of this rejection is respectfully requested for at least the following reason. Claims 14 and 15 depend upon independent claim 12, Intriligator, *et al.* fails to make up for the deficiencies discussed *supra* of Augart in view of Gray, *et al.* with respect to claim 12. Intriligator, *et al.* discloses methods for forecasting weather in space and fails to teach or suggest *measuring a...delay time relating to a transmission from the ... computer system to receipt of the transmission at the Internet host along a ... network path between a host IP address associated with the Internet host and the ... computer system ...the ... network paths containing at least one intermediate node*. Accordingly, it is readily apparent that this rejection should be withdrawn.

VI. Rejection of Claims 16-22 Under 35 U.S.C. §103(a)

Claims 16-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gray *et al.* (hereinafter Gray) (US 4,891,761) in view of Augart (US 6,778,524) as applied to claim 12 above, and further in view of Maine *et al.* (hereinafter Maine) (US 5,515,062). Withdrawal of this rejection is respectfully requested for at least the following reason. Claims 16-22 depend upon independent claim 12, Maine, *et al.* fails to make up for the above noted deficiencies of Augart in view of Gray, *et al.* with respect to claim 12. Similarly to Gray, *et al.*, Maine, *et al.* discloses methods for locating a *wireless* portable device using a global radio telecommunications system and also fails to teach or suggest *measuring a...delay time relating to a transmission from the ... computer system to receipt of the transmission at the Internet host along a ... network path between a host IP address associated with the Internet host and the ... computer system ...the ... network paths containing at least one intermediate node*. Accordingly, it is readily apparent that this rejection should be withdrawn.

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VII. Rejection of Claims 27-32 and 38-41 Under 35 U.S.C. §103(a)

Claims 27-32 and 38-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Biliris, *et al.* (US 2002/0078233 A1) in view of Yakhini, *et al.* (US 6,768,820 B1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Biliris, *et al.* does not teach or suggest each and every limitation of applicants' claimed invention.

Independent claim 27 (and similarly independent claims 38-41) recites *computing a dispersion metric representative of the accuracy of the location estimate of the location of the Internet host*. Biliris, *et al.* discloses methods for load balancing content requests amongst a plurality of content distribution networks. As conceded in the Office Action, Biliris, *et al.* fails to teach or suggest a dispersion metric as taught in the subject claim. Moreover, Biliris, *et al.* fails to teach or suggest any metrics associated with location estimate accuracy. Yakhini, *et al.* also fails to teach or suggest these novel features of the applicant's claimed invention as discussed *supra* with respect to claims 3 and 4. Therefore, the combination of the prior art references fail to teach or suggest *determining a dispersion metric representative of the accuracy of the location estimate* and furthermore, they are concerned with different subject matter and provide no motivation to be combined. Accordingly, this rejection should be withdrawn.

VIII. Rejection of Claim 36 Under 35 U.S.C. §103(a)

Claim 36 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Biliris, *et al.* (US 2002/0078233 A1) in view of Augart (US 6,778,524), as applied to claim 35 above, and further in view of Gray, *et al.* (US 4,891,761). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Biliris, *et al.*, Augart, and Gray, *et al.*, alone or in combination, do not teach or suggest each and every limitation of applicants' claimed invention. Claim 36 recites, *measuring a...delay time relating to a transmission from the ... computer system to receipt of the transmission at the Internet host along a ... network path between a host IP address associated with the Internet host and the ... computer system ... the ... network paths containing at least one intermediate node*. As conceded in the Office Action, Biliris, *et al.* and Augart fail to teach or suggest a delay time. Furthermore as noted above with respect to independent claim 12, Gray, *et al.* also fails to teach the aforementioned novel aspect

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of applicants' invention as recited in the subject claim. Therefore, this rejection should be withdrawn.

IX. Rejection of Claim 37 Under 35 U.S.C. §103(a)

Claim 37 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Biliris, *et al.* (US 2002/0078233 A1) in view of Gray *et al.* (US 4,891,761). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Biliris, *et al.* and Gray, *et al.*, alone or in combination, do not teach or suggest each and every limitation of applicants' claimed invention. Claim 37 recites, *measuring a...delay time relating to a transmission from the ... computer system to receipt of the transmission at the Internet host along a ... network path between a host IP address associated with the Internet host and the ... computer system ... the ... network paths containing at least one intermediate node*, which the Office Action concedes that Biliris, *et al.* fails to teach or suggest. Moreover, Gray, *et al.* also fails to teach this novel feature of the subject claim as discusses *supra* with respect to independent claim 12. Accordingly, this rejection should be withdrawn.

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CONCLUSION

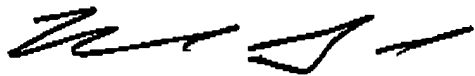
The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP189USA].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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